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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,039	08/15/2001	Daniel Leontiev	OE-89	1874

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EXAMINER

NASH, LASHANYA RENEE

ART UNIT	PAPER NUMBER
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2153

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/929,039

Applicant(s)

LEONTIEV ET AL.

Examiner

LaShanya R. Nash

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Action is in response to an Amendment filed 19 April 2006. Claims 11-17 are presented for further consideration.

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 19 April 2006 has been entered.

Claim Objections

Claims 11-17 are objected to because of the following informalities: Inconsistent terminology and grammatical errors. Appropriate correction is required.

In claim 11, Applicant recites "Apparatus", in line 1. Examiner suggests replacing with "An apparatus".

In claims 12-16, Applicant recites "Apparatus", in line 1. Examiner suggests replacing with "The Apparatus" to appropriately indicate dependency to previous apparatus claims.

In claim 12, Applicant recites "from the or each said", in lines 2-3. Examiner suggests replacing with "from at least one or each of said".

In claim 15, Applicant recites "internet" in lines 3-4. Examiner suggests replacing with Internet.

In claim 17, Applicant recites "The method", in line suggests replacing with "A method" to appropriately indicate independency.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In reference to claims 11, 14, 15, and 17 the phrase "type" (i.e. Ethernet-type) renders the claims indefinite because the claims includes elements not actually disclosed (those encompassed by "type"), thereby rendering the scope of the claims unascertainable. See MPEP § 2173.05(d). In order to expedite the examination process, Examiner interprets the limitation as "Ethernet" for the purposes of Prior Art rejections as set forth below in the Office action.

In reference to claims 11-17, the phrase "and/or" renders the claims indefinite. It is unclear as to whether the claims require "and" or "or", therefore the limitations can be considered with conflicting interpretations (i.e. control *and* supervising, control *or*

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supervising). In order to expedite the examination process, Examiner interprets the limitation as "and" for the purposes of Prior Art rejections as set forth below in the Office action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Venkatraman et al. (US Patent 5,956,487) in view of Motoyama et al. (US Patent 6,631,247), hereinafter referred to as Venkatraman and Motoyama respectively.

In reference to claim 11, Venkatraman shows an embedding web access mechanism that provides network accessible user interface functions (abstract and column 2, lines 1-41). Venkatraman further shows:

- An apparatus (Figures 1a&1b) for controlling and/or supervising an operation at a remote location (i.e. device-specific user interface functions, column 3, lines 1-12; Figures 2&5-item 40) comprising:

- At least one controlling and/or supervising device (i.e. computer system with user interface and variety of devices, column 1, lines 14-27 and column 3), (column 5, lines 51-60; Figure 2; column 7, lines 30-36; and Figure 4);
- Server equipment (i.e. web server; Figure 1a-item 14) embedded in the controlling and/or supervising device to enable the device to be connected to a network (column 3, lines 13-26; column 4, lines 26-28; column 7, lines 24-29), characterized in that the server equipment consists of a web and/or Internet server (i.e. web server) and arranged to give the controlling and/or supervising device the capability of being operatively connected (i.e. network interface; Figure 1a-item 12) directly to a wide area network (WAN) comprising the Internet (Figure 5-item 100; column 7, lines 52-56), or a local area network (LAN), (Figure 5-item 120; column 7, lines 57-67) comprising an Ethernet network (column 4, lines 17-28) to transmit information to the network and/or receive information from the network, and to enable processor means (i.e. remote computer system; Figures 2&5-item 40; column 5, lines 29-67) when operatively connected to the network, to access the controlling and/or supervising device (i.e. web browser of remote computing system allows web user access and control of user interface functions of a device across the network connection; columns 4-6; Figure 3).

However Venkatraman does not explicitly show the apparatus wherein the aforementioned WAN or LAN connections are using TCP/IP and characterized by MAC addresses. Nonetheless, these would have been obvious modifications to the

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mechanism as disclosed by Venkatraman for one of ordinary skill in the art at the time of the invention, as further evidenced by Motoyama.

In an analogous art, Motoyama shows a system employed to transmit machine status e-mails comprising gathered diagnostic, monitor, and control information of remote machines (abstract and column 3, lines 8-29). Motoyama further shows connecting to the WAN Internet (Figure 5-item 10; column 8, lines 55-60) or LAN Ethernet (Figure 4-item 230; Figure 5-item 274; column 8, lines 15-20; column 9, lines 42-46) using TCP/IP (column 3, lines 30-45). In addition, Motoyama inherently teaches MAC addresses through employing the TCP/IP transmission protocol. TCP/IP, in the data layer, indicates a specific hardware address (i.e. MAC address) to identify nodes of a network for proper transmission of data packets. These modifications to the aforementioned mechanism as disclosed by Venkatraman would have been obvious, because one of ordinary skill in the art would have been motivated so as to employ convenient and well-established forms of communication to forward appropriate machine-based information to system users (i.e. resource manager), (Motoyama column 2, lines 32-38).

In reference to claim 17, Venkatraman discloses a method for employing a device with an embedded web server, in order to enable access of the device control interface via a remote location (column 2, lines 27-30 and column 2, lines 37-41). Venkatraman explicitly discloses the embedded web access method to comprise:

- An method of operating an apparatus (Figures 1a&1b) for controlling and/or supervising an operation at a remote location (i.e. device-specific user interface functions, column 3, lines 1-12; Figures 2&5-item 40) comprising:
- Feeding information to and/or from at least one controlling and/or supervising device (i.e. computer system with user interface and variety of devices, column 1, lines 14-27 and column 3), (column 5, line 65 to column 6, line 5; Figure 2; column 7, lines 30-36; and Figure 4), via server equipment (i.e. web server; Figure 1a-item 14) embedded in the controlling and/or supervising device which enables the device to be connected to a network (column 3, lines 13-26; column 4, lines 26-28; column 7, lines 24-29);
- Transmitting the information via the server equipment to and/or from the network (column 3, lines 27-33);
- Characterized in that the server equipment consists of a Web and/or Internet server (i.e. web server) and arranged to give the controlling and/or supervising device the capability of being operatively connected (i.e. network interface; Figure 1a-item 12) directly to a wide are network (WAN) comprising the Internet (Figure 5-item 100; column 7, lines 52-56), or a local area network (LAN), (Figure 5-item 120; column 7, lines 57-67) comprising an Ethernet network (column 4, lines 17-28) to transmit information to the network and/or receive information from the network, and to enable processor means (i.e. remote computer system; Figures 2&5-item 40; column 5, lines 29-67) when operatively connected to the network, to access the device to

receive information regarding supervision (i.e. software that performs control and information monitoring and logging functions of the monitor; column 4) of the operation from the device (i.e. web browser of remote computing system allows web user access and control of user interface functions of a device across the network connection; columns 4-6; Figure 3), and to transmit information to the device to modify the operation, (i.e. control the functions and operating states of the device; column 3, lines 5-26).

However Venkatraman does not explicitly show the method wherein the aforementioned WAN or LAN connections are using TCP/IP and characterized by MAC addresses. Nonetheless, these would have been obvious modifications to the method as disclosed by Venkatraman for one of ordinary skill in the art at the time of the invention, as further evidenced by Motoyama.

In an analogous art, Motoyama shows a method employed to transmit machine status e-mails comprising gathered diagnostic, monitor, and control information of remote machines (abstract and column 3, lines 8-29). Motoyama further shows connecting to the WAN Internet (Figure 5-item 10; column 8, lines 55-60) or LAN Ethernet (Figure 4-item 230; Figure 5-item 274; column 8, lines 15-20; column 9, lines 42-46) using TCP/IP (column 3, lines 30-45). In addition, Motoyama inherently teaches MAC addresses through employing the TCP/IP transmission protocol. TCP/IP, in the data layer, indicates a specific hardware address (i.e. MAC address) to identify nodes of a network for proper transmission of data packets. These modifications to the aforementioned method as disclosed by Venkatraman would have been obvious,

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because one of ordinary skill in the art would have been motivated so as to employ convenient and well-established forms of communication to forward appropriate machine-based information to system users (i.e. resource manager), (Motoyama column 2, lines 32-38).

In reference to claim 12, Motoyama shows the apparatus wherein the server equipment includes a means for transmitting information from the least one or each of the controls and or supervisor devices in the form of email (i.e. control and supervision apparatus; column 6, lines 21-45).

In reference to claim 13, Venkatraman apparatus wherein the at least at least one control and/or supervising device incorporate a microprocessor (Figure 1b-item 200), and the server equipment is embedded within the microprocessor memory (i.e. processor provides web server functions; column 4, lines 5-17).

In reference to claim 14, Venkatraman shows the apparatus wherein the at least one control and/or supervising device incorporates an Internet and/or Ethernet network hub (communication path) for a connection to a plurality of further control supervising devices (Figures 2&4-items 50-52) to connect the further devices the Internet and/or Ethernet network, (column 5, lines 51-60; Figure 2; column 7, lines 30-36; and Figure 4).

In reference to claim 15, Venkatraman shows the apparatus wherein the plurality of the control and/or supervising devices connected to an Ethernet-type network (i.e. device connected via LAN connection; Figure 5-items 106,120) which in turn is connected (i.e. through communication system 102) to the Internet (Internet; Figure 5-item 100) to provide an open system accessible via the Internet, (column 7, line 52-67).

In reference to claim 16, Venkatraman shows the apparatus wherein the at least one control and/or supervising device comprise one or more of the following namely a process controller, panel meters, transmitter or processing information, a signal conditioners (i.e. variety of devices, column 1, lines 14-27 and column 3), and a device for measuring and/or monitoring factors (i.e. lab equipment includes measurement devices such as oscilloscopes, spectrum analyzers and other types of measurement devices; column 3; Figure 1-item 10).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaShanya R Nash whose telephone number is (571) 272-3957. The examiner can normally be reached on 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LaShanya Nash
Art Unit, 2153
April 27, 2006



KRISNA LIM
PRIMARY EXAMINER